

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 1/5/04

23

AGENDA SECTION: Consent Agenda	ORIGINATING DEPT: CITY ADMINISTRATOR	ITEM NO. D-11
ITEM DESCRIPTION: Termination of Development Assistance Agreement for Celestica Tax Increment Financing Project		PREPARED BY: T.SPAETH

On July 17, 2000, the Rochester City Council approved a TIF Plan and Development Agreement to provide TIF assistance to the Celstica project. The Development Agreement indicates what the obligations of both parties are. They are summarized below:

Company Obligations:

- Under Section 3.1 of the Development Agreement, the improvements were to be substantially completed by December 31, 2001. The improvements mean the 200,000 square foot manufacturing facility, along with all utility, site improvements, parking and related improvements on the Development property.
- Under Section 3.5 of the Development Agreement, Celestica shall have maintained at the Project at least 500 full-time equivalent jobs in each of the calendar years 2002, 2003 and 2004 and at least 560 full-time equivalent jobs in 2005 and each subsequent calendar year.

City Obligations:

- Under the terms of Section 3.2 of the Development Agreement, the City would reimburse up to a maximum of \$2,226,000 in development costs and interest under a "pay as you go" "TIF Bond," specifically, the Taxable Tax Increment Revenue Bond of 2000 (Celestica Project), dated August 17, 2000, issued by the City to Celestica Corporation, as the registered owner thereof.

As it presently stands, the improvements have been completed and Celestica commenced operations at the facility; however, by letter to the Mayor dated February 6, 2003, Celestica advised the City that it would close the facility and it has done so.

The City's tax increment assistance was conditioned on the continued occupancy and use of the facility by Celestica in its contract manufacturing operations, and Celestica's vacation of the facility and cessation of its operations there constitute an Event of Default under Section 4.1 of the Development Agreement. (The City has not provided any TIF reimbursement to Celestica due to the default.). The City has provided a notice of an Event of Default to the company previously.

COUNCIL ACTION REQUESTED:

Adopt the prepared resolution approving and authorizing the termination of the Development Assistance Agreement with CEL (MN) QRS 14 – 40, INC.

COUNCIL ACTION: Motion by: _____ Second by: _____ to:

2A

CITY OF ROCHESTER
COUNTY OF OLMSTED
STATE OF MINNESOTA

RESOLUTION NO. _____

RESOLUTION TERMINATING
DEVELOPMENT ASSISTANCE AGREEMENT FOR
CELESTICA PROJECT

BE IT RESOLVED by the Common Council (the "Council") of the City of Rochester, Minnesota (the "City"), as follows:

1. Recitals.

(a) The City has established its Tax Increment Financing District No. 16 (the "TIF District") for the "Project" hereinafter described.

(b) The City also entered into a certain Development Assistance Agreement, dated as of July 17, 2000 (the "Development Agreement"), with CEL (MN) QRS 14-40, Inc., a Delaware corporation (the "Company"), pursuant to which the Company agreed to substantially complete a facility to be used and operated by Celestica Corporation (the "Project") within the TIF District.

(c) By letter dated September 18, 2003, the City gave the Company and others specified in the Development Agreement notice of the occurrence of various "Events of Default" under the Development Agreement, including without limitation the vacation of the Project by and the cessation of the operations of Celestica Corporation. As of the date hereof none of the Events of Default has been cured and no indications have been given in response to the above-described letter that said Events of Default can or would be cured. Accordingly, pursuant to Section 4.2 of the Development Agreement the City is entitled to terminate the Development Agreement.

2. Termination of Development Assistance Agreement. The Council hereby directs that the Development Agreement be, and the same hereby is, terminated by the City pursuant to and as provided in Section 4.2 of the Development Agreement. City staff is further directed to provide the Company and others with the written notification of this termination, as provided under the Development Agreement.

25

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF
ROCHESTER, MINNESOTA, THIS 5TH DAY OF JANUARY, 2004.

PRESIDENT OF SAID COMMON COUNCIL

ATTEST:

CITY CLERK

Approved this ____ day of January, 2004.

(Seal of the City of
Rochester, Minnesota)

MAYOR OF SAID CITY

Councilmember _____ moved the adoption of the foregoing
resolution, which motion was duly seconded by Councilmember _____, and upon
vote being taken thereon, the following Councilmembers voted in favor thereof:

and the following Councilmembers voted against the same:

whereupon said resolution was declared duly passed and adopted.

24

CITY CLERK'S CERTIFICATE

I, the undersigned, being the duly qualified and acting City Clerk of the City of Rochester, Minnesota, DO HEREBY CERTIFY that I have carefully compared the attached and foregoing extract of minutes of a duly called and regularly held meeting of the Common Council of said City held on the date therein indicated, with the original minutes thereof on file in my office and I further certify that the same is a full, true, and correct transcript thereof insofar as said minutes relate to the actions referenced therein respecting the termination of the Development Assistance Agreement related to the Celestica Corporation project.

WITNESS My hand officially and the official seal of the City this ____ day of _____, 2004.

City Clerk
Rochester, Minnesota

(SEAL)